

TELECOMMUNICATIONS LAWS OF THE WORLD

Peru



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PERU



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OVERVIEW OF LEGAL LANDSCAPE

Telecommunication services are primarily regulated under Single Organized Text of the Law of Telecommunications and other decrees that establish specific provisions regarding several matters.

To provide telecom activities in Peru, companies must seek government concessions and permits. Authorization varies with the telecom activity that will be performed.

Additionally, there are two corporate bodies that are very relevant in the telecom sector in Peru.

The Ministry of Transport and Communications (MTC) is in charge of establishing the telecommunications policy to be followed and control its results. It includes preparing and proposing the approval of regulations and plans for the different services contemplated in the Law, and issuing resolutions regarding these matters. It can issue and revoke concessions, authorizations, permits and licenses, and control their correct use. It can also delegate its functions and faculties to the Supervisory Agency for Private Investment in Telecommunications (OSIPTTEL).

OSIPTTEL enjoys regulatory, normative, corrective, sanctioning and controversy-resolution faculties. OSIPTTEL issues rules related to tariffs, conditions of use of telecommunication services, compliance with quality of the service, interconnection, infrastructure sharing, among others.

Relationship between the MTC and OSIPTTEL is independent. Both entities coordinate when necessary.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

- Single Organized Text of the Law of Telecommunications (Law) and its amendments
- Single Organized Text of the General Regulations of the Law of Telecommunications (Regulations) and its amendments
- Single Organized Text of Administrative Procedures at the MTC

REGULATORY BODIES OR AUTHORITIES

The main regulatory bodies are:

The MTC

Address: Jirón Zorritos No. 1203, distrito de Lima, provincia y departamento de Lima.

Telephone number: +51 615-7800

Website: www.mtc.gob.pe

OSIPTEL

Address: De La Prosa 136, distrito de Cercado de Lima, provincia y departamento de Lima

Telephone number: +51 225-1313.

Website: www.osiptel.gob.pe

TYPES OF TELECOMMUNICATIONS ACTIVITIES AND/OR PERSONS WHICH ARE SUBJECT TO LEGAL AND REGULATORY REQUIREMENTS

- Telecommunication services
- Public voice services
- Broadcasting services (TV and Radio)
- Radio communication
- Requirements for obtaining, installing, operating and exploiting the concession of telecommunications services
- Regulation for installing antennas, radiating systems and telecommunication towers

OVERVIEW OF CONSENTS, LICENCES AND AUTHORISATIONS REQUIRED PRIOR TO THE COMMENCEMENT OF TELECOMMUNICATIONS ACTIVITIES

The MTC grants the single concession for the provision of all public services of telecommunications, which is perfected by means of a written agreement and approved by resolution of the MTC. The concession agreement includes the rights and obligations of the concessionaire, causes of termination, term of the concession (maximum term for the concession is 20 years), among others.

In the aforementioned concession agreement, the MTC can grant the right to provide all the public services of telecommunications. The concessionaire must previously inform the MTC the public service that it will initially offer.

If the Concessionaire wishes to provide additional services to those included in the single concession agreement, it shall request the registration of the new services in the registry enabled for such purpose, complying with the corresponding requirements.

DOMICILE RESTRICTIONS PREVENTING THE OPERATION OF CERTAIN TELECOMMUNICATIONS ACTIVITIES BY NON-DOMICILED ENTITIES

Only legal persons legally registered and existing in Peru can hold the aforementioned telecom service concessions.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Peruvians can use their postpaid rate plans (voice, SMS and data services) without any additional surcharge in any of the member countries of the Andean Community (Bolivia, Colombia, Ecuador and Peru).

Additionally, Peru signed Resolution 2232, which approves the new wholesale tariff scheme for international roaming services in the member countries of the Andean Community, which was published in the Official Gazette of the Cartagena Agreement.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

As a general summary, users have the following rights:

- Freely choose the service, plan or promotion that best suits their needs.
- Receive a copy of the service contract.
- Have an uninterrupted and quality service.
- To file a complaint and to receive a code from the operator.
- Receive clear, detailed and updated information of the service.
- Receive a detailed payment receipt.
- Keep the same number, even if they change operator. The portability process is 100% free.
- Cancel the service without conditions or explanations.
- Block the equipment and suspend the service due to loss or theft.
- Temporarily suspend service.

REGULATORY TAXES AND FEES

The cost of licensing is as follows:

- **Concession:** One-time payment of 0.25% of the investment value declared for the first year of the Concession, upon the execution of the Concession agreement.
- **Spectrum use:** Annual payment for the use of the Spectrum denominated “canon”. The canon is determined (i) on the basis of applying a certain percentage of Tax Unit, and/or (ii) by applying the applicable methodology. (i) and/or (ii) will be enforced, depending on the type of service for which the Spectrum is used for.
- **Post-grant fees:** (i) An annual fee for commercial exploitation of the telecommunication service subject matter of the concession of 0,5% of their gross invoiced and collected income; (ii) Contribution to FITEL (paid on an annual basis) equivalent to 1% of the invoiced and collected gross income received for rendering public services; (iii) Contribution to OSIPTEL of 0,5% of the invoiced and collected gross income received for rendering public service.

Additionally, the applicable Income Tax rate will be 29.5%. This rate will apply on annual net income.

KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

The MTC and OSIPTEL are in charge of enforcing telecom regulations. Telecommunication regulations establishes possible reprimands, fines, suspension of the operation, expiration of the concession or cancellation of the license in case the operator incurs in certain conduct stated in such regulations.

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